

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL

No. 197

Introduced by Senator Burton

February 13, 2003

An act to add Section ~~14105.983 to the Welfare and Institutions Code, relating to health~~ 559 to the Labor Code, relating to hours and wages.

LEGISLATIVE COUNSEL'S DIGEST

SB 197, as amended, Burton. ~~Health systems: registered~~ Registered nurses: wages and hours of employment violations: fines.

~~Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health services. The Medi-Cal program provides for a special methodology of reimbursement of disproportionate share hospitals, as described, for the provision of inpatient hospital services. Under existing law, a disproportionate share hospital is a hospital that has disproportionately higher costs, volume, or services related to the provision of services to Medi-Cal or other low-income patients than the statewide average.~~

Existing law establishes in the Department of Industrial Relations the Division of Labor Standards Enforcement for the enforcement of labor laws, and the Industrial Welfare Commission, which is required to issue orders necessary to regulate the wages, hours, and working conditions of employees in this state. An employer that violates the laws, regulations, or orders governing wages, hours, or working conditions is subject to criminal prosecution, civil action, and an action to enjoin or restrain the violation.

~~This bill would require the State Department of Health Services to fine any health system, as defined, an amount not less than 25% and not more than 51% of the health system's disproportionate share funding for a fiscal year in which either the Division of Labor Standards Enforcement, an independent arbitrator, or a court of competent jurisdiction determines that the hospitals that a health system owns, operates, or both, have accumulated more than 1,000 violations of labor laws relating to wages and hours in a 5-year period.~~

~~The bill would require the State Department of Health Services, upon appropriation by the Legislature, to allocate the proceeds from the fines to county health departments to use to provide health care, including nursing services, to the poor and indigent.~~

~~The bill would provide that it shall be implemented only to the extent it is permitted by federal law and it does not affect the availability of federal financial participation. The bill would require the department to seek any federal approvals necessary to implement the bill provide that health care employers, as defined, who violate laws or orders of the Industrial Welfare Commission relating to the meal or rest periods of registered nurses shall be subject to treble civil damages, as specified.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There is a demonstrated shortage of registered nurses in the
4 state, including within hospital settings, and this shortage is
5 reducing access to necessary and quality hospital care.

6 (b) Many registered nurses are leaving the hospital setting
7 because the nursing work environment in hospitals has
8 deteriorated to an unacceptable level. The Legislature is taking
9 steps to address this issue through implementing nurse-to-patient
10 ratios.

11 (c) To encourage registered nurses who work in hospital
12 settings to continue to serve in hospitals, the Legislature needs to
13 improve the hospital work environment. One way to do this is to
14 strengthen workplace protections for registered nurses who work
15 in hospital settings.



(d) It is in the best interest of the public, hospitals, patients, and registered nurses to strengthen workplace protections for registered nurses who work in hospitals.

~~(e) To strengthen workplace protections for registered nurses~~

SEC. 2. Section 559 is added to the Labor Code, to read:

559. (a) A health care employer shall be subject to treble the civil penalties provided by Section 558 for violating any provision of this code or order of the Industrial Welfare Commission governing meal or rest periods for registered nurses.

(b) As used in this section, "health care employer" means any hospital, skilled nursing facility, intermediate care and residential care facility, convalescent care institution, home health agency, clinic operating twenty-four hours per day, or clinics performing surgery, urgent care, radiology, anesthesiology, pathology, neurology, or dialysis.

~~who work in hospitals, it is necessary to authorize the State Department of Health Services to fine health systems that operate or own 15 or more hospitals that violate state wage and hour requirements applicable to registered nurses, in an amount not to exceed 51 percent of disproportionate share funding.~~

~~(f) The proceeds from the fines should be used to promote nursing and medical care for the poor and indigent at the county level.~~

SEC. 2. Section 14105.983 is added to the Welfare and Institutions Code, to read:

14105.983. (a) For purposes of this section, "health system" means an entity, for-profit or nonprofit, that operates, owns, or both, 15 or more hospitals in the state.

(b) (1) Whenever the Division of Labor Standards Enforcement in the Department of Industrial Relations, an independent arbitrator, or a court of competent jurisdiction determines that the hospitals that a health system owns, operates, or both, have accumulated more than 1,000 violations of Division 2 (commencing with Section 200) of the Labor Code with respect to any rules, regulations, or orders governing the wages and hours of registered nurses in a five-year period, the State Department of Health Services shall impose a fine as provided in subdivision (c).

(2) In calculating the violations described in paragraph (1), each identified violation may be included in only one five-year period calculation.

~~(c) The State Department of Health Services shall fine a health system no less than 25 percent and no more than 51 percent of the amount of disproportionate share funding allocated to all hospitals in the state owned, operated, or both, by the health system. The fine shall be calculated based upon disproportionate share funding that accrued during the disproportionate share hospital's fiscal year in which the violation described in subdivision (b) has occurred.~~

~~(d) (1) The Health System Penalty Fund is hereby established. Moneys received by the department pursuant to this section shall be deposited in the fund.~~

~~(2) Subject to appropriation by the Legislature, the department shall allocate moneys in the fund to county health departments. The amount to be allocated to each county shall be calculated by multiplying the total amount of the fine imposed upon the health system by the ratio of the total number of disproportionate share hospitals in a county that are owned, operated, or both, by the health system divided by the total number of disproportionate share hospitals that are owned, operated, or both, by the health system.~~

~~(3) A county health department shall use moneys allocated pursuant to this section to provide health care, including nursing services, to the poor and indigent.~~

~~(e) This section shall be implemented only to the extent that it is permitted by federal law and it does not affect the availability of federal financial participation. The department shall seek any federal approvals necessary to implement this section.~~